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The County Seat Battles of Cass County, Illinois.

BY J. N. GRIDLEY.

Cass County lies in the central portion of the State of Illinois, immediately south of the Sangamon River, and immediately east of the Illinois River. It is bounded on the north by the County of Mason; on the east, by the Counties of Menard and Sangamon; on the south, by the County of Morgan; on the west, by the Counties of Brown and Schuyler. Its east line is sixteen miles in length, and its south line is thirty-one miles long; its area is three hundred and seventy five square miles. The State of Illinois contains one hundred and two counties; if all were equal in size, each would contain five hundred and fifty-five square miles; therefore, Cass is but two-thirds of the area of the average Illinois county. In 1910, the population of Cass County was 17,372; the population of its towns was as follows: Beardstown, 6,107; Virginia, 1,501; Chandlerville, 884; Ashland, 1,096; Arenzville, 518.

Morgan County, Illinois, was organized by Act of the Illinois General Assembly, on January 31, 1823, from the northern part of Greene County, and comprised all the territory between the present Greene County on the south, and the Sangamon River on the north, being bounded on the west by the Illinois River, and on the east by Sangamon County, (of which Springfield is the county seat), which included the present Scott and Cass Counties. The county seat of Morgan County is Jacksonville, which was platted in the year 1825.

During the winter of 1836 and '37, petitions were circulated in the northern part of Morgan County for a new county. The proposed county was to be made from the northern part of Morgan, which laid north of the line dividing townships



CASS COUNTY COURT HOUSE, VIRGINIA, ILLINOIS

16 and 17, running from the Illinois River east, to the Sangamon County line. These petitions were signed by some five hundred voters in Morgan County, which then contained, and at the previous August election had polled, about 3,600 votes. Acting on these petitions, the Legislature passed a law conditionally creating the County of Cass, making the line not where the petition called for viz: the line dividing the township 16 from the township 17, but locating it through the center of the township 17, thus cutting off a strip from the entire south end of the proposed territory three miles in width, and more than thirty miles in length. The condition of this law was, that, at the time appointed in the law, an election should be held in Morgan County, which then included the present Counties of Scott and Cass, for the purpose of accepting or rejecting the proposed county. At that time Morgan County was represented by Wm. O'Rear, Wm. Thomas and Wm. Weatherford in the Senate, and Newton Cloud, Stephen A. Douglas, Wm. W. Happy, John J. Hardin, Joseph Morton and Richard Walker in the lower house. Of these, only one, Richard Walker, lived within the territory sought to be erected into the new county. This three-mile strip was composed of very choice land, which these gentlemen did not care to see cut off from their county; another reason for their act was, that the town of Virginia had been laid out by its proprietor, Dr. Henry H. Hall, in May, 1836, in the geographical center of the proposed new county, and he and his friends, Archibald Job, William Holmes and others, were urging, not only that the new county be created, but that Virginia be designated as its permanent county seat. But Virginia was but fifteen miles directly north from Jacksonville, and this influential Morgan County delegation did not care to see a county seat so near; Beardstown laid out on the bank of the Illinois River in 1826 by E. C. March and Thomas Beard, was twelve miles west and four miles north of Virginia, or thirteen miles distant therefrom by following the Beardstown and Springfield State road that connected the two; and these gentlemen decided, that if a new county seat was to come into existence,

the farther from Jacksonville, the better, and they resolved to leave the selection of the site to the voters, believing, that as Virginia was then a mere hamlet, and Beardstown quite a growing place of ten years in advance, that the latter town would be chosen; in this they were right, as the sequel will show.

The act for the formation of Cass County was enacted on March 3, 1837. The first section described the boundary of the proposed county, which description eliminated the three-mile strip mentioned. The second section provided for an election to be held on the third Monday of April, 1837, by the people of Morgan County for or against the formation of the new county. The act further provided that if the returns should show that a majority of the votes cast were in favor of the creation of the proposed county, then the clerk of the County Commissioners Court should transmit a certificate of that fact to the secretary of state of the State of Illinois to be filed by him as the evidence that the new county had been created, and in that event that an election should be held in the new county on the first Monday of May, 1837, to choose the county seat for the County of Cass; that if the owner of lands where said county seat should be located, shall donate and convey to the County of Cass at least fifteen acres of land, where said seat should be located, to be disposed of by the County Court and the proceeds used in erecting a court house and jail; but if Beardstown should be chosen, then that town, within a year should donate not less than \$10,000 for the erection of such buildings; that the seat of justice should be located at Beardstown, until the public buildings were erected; that in case Beardstown failed to make the payment of \$10,000 within the year, then the County Court should locate the county seat at the point where the fifteen acres should be provided.

At the appointed time an election was held under this act; many of the voters within the proposed new county were so enraged because the three-mile strip was omitted that they refused to go to the polls; others did vote for the new county for the reason they believed a subsequent Legislature would

add this strip. Of the 3,600 votes that were polled the previous fall, only one thousand were cast at this special election in April; and of the voters within the boundaries of the proposed new county there was an actual majority of 48 against the proposition, but by rejecting the returns from Lucas Precinct which was within the proposed new county and Meredosia Precinct, in what is now and then was Morgan County, it was declared that the election had resulted in favor of the formation of Cass County; the returns from Meredosia Precinct were thrown out because they were returned by a citizen who was neither a clerk nor a judge of the election; and the returns from Lucas Precinct were rejected for the reason that they were sent in by mail, instead of having been delivered by one of the election officials. The election held the following month, to choose the seat of justice of Cass County, resulted in a majority in favor of Beardstown.

On July 21, 1837, the Legislature passed an act in relation to Cass County, Illinois, in which it was recited that under elections held under the former act that a majority of the votes were cast in favor of the creation of the new county, and that Beardstown had been chosen as the county seat; that some doubts had been expressed as to the legality of the proceedings, and therefore this act declared that Cass County was one of the counties of the State of Illinois; that the county seat shall be located in Beardstown, provided said town paid the sum of \$10,000 for the erection of the public buildings; that said sum might be made in three equal annual payments, etc.

Beardstown having failed to pay any portion of the \$10,000 for the erection of the court house and jail within the time mentioned in the foregoing act of July 21, 1837, the County Commissioners proceeded to locate the county seat of Cass County at the town of Virginia, as Dr. Henry H. Hall, the proprietor of the said town had conveyed to the county a tract of fifteen acres, immediately west of and adjoining the plat of the addition to the town. The County Commissioners then appointed Dr. Hall as a special commissioner to lay off the said

tract of fifteen acres into a block for the new court house and lots, streets and alleys, and sell and convey the same in behalf of the county; acting under this power, Dr. Hall platted a three-acre tract three hundred feet wide and four hundred and fifty feet long for the "Court House Square," and the remainder of the donated tract was platted as ordered. Dr. Hall had no sooner begun the sale of lots in this addition which was called "The Public Grounds of Cass County," than the County Commissioners proposed a new contract, which the Doctor accepted, under which Hall agreed to erect the court house and jail according to plans agreed upon, and in consideration thereof the County Commissioners reconveyed to Hall all the lots aside from the three-acre tract aforesaid, and repaid to him the moneys he had received from the sale of the lots. The building of a very respectable two-story building for a court house was begun in the fall of 1838, and rapidly finished; a sufficient jail was built nearby, both buildings of brick.

On the 2nd day of March, 1839, the State Legislature passed an act to provide for the location of the county seat of Cass County; in the preamble to this act it was recited that the corporation of Beardstown had failed to pay the \$10,000, and had not agreed to comply with the provisions of the former act in relation to such payment; that the County Commissioners of said Cass County had located the county seat at Virginia and had contracted for the erection of a court house and jail in said county; that doubts were entertained as to the authority of the commissioners to so act, therefore it was enacted that the county seat of Cass County be and remain at Virginia, and the courts of said county shall hereafter be held at that place; and the several officers of said county who are required to keep their offices at the county seat are required to remove their respective books and papers, etc., pertaining to the same to Virginia, on or before the first Monday of May, 1839, and any one of them failing to comply to be liable to indictment and removal from office.

It appears that the buildings were not fully completed by May, 1839, and therefore the first term of the Circuit Court

of the county was held at Beardstown, beginning on November 13, 1837, Judge Jesse B. Thomas presiding, who appointed N. B. Thompson clerk of the Circuit Court, Lemon Plaster was the sheriff. The next term of said court was held in Beardstown May 21, 1838, in October 1839, Hon. Samuel H. Treat, presiding as judge; at Virginia, Judge Samuel D. Lockwood presided at the next term in April, 1840.

In the meantime steamboat transportation upon the Illinois River had greatly increased, to the great benefit of Beardstown, which began a rapid growth of population and business enterprises; the people of that town much regretted that they had failed to retain the possession of the county seat, and resolved to procure its return from Virginia. Accordingly they procured the passage of an act by the Legislature, which was enacted on March 4, 1843, providing for an election to be held for the purpose of selecting a permanent seat of justice for Cass County. The act further provided that the citizens or proprietors of the place selected by the majority of the votes cast at the election, shall, within eighteen months after the said election, convey, or procure to be conveyed to the said County of Cass a suitable lot or lots of ground for the purpose of a public square, with a suitable building thereon erected for the purpose of holding courts therein, and a suitable lot or lots of ground with a suitable jail thereon erected, the suitability of such buildings to be certified by the presiding judge of the Circuit Court of said county, by his certificate in writing, to be filed in the office of the clerk of the County Commissioners Court of said county, and if the provisions of this act be not complied with, then the county seat of the County of Cass shall forever thereafter be and remain at the town of Virginia, in Cass County. Should the town of Beardstown be selected as the county seat, the president and trustees of the said town are authorized to convey to the said county any lot or lots of ground, the title to which to be vested in the inhabitants of said town, in order to carry out the provisions of this act.

Under this law, an election was held in the County of Cass, on the first Monday of September, 1843; 741 votes were polled

at that election, of which 426 were cast in the Beardstown precinct, and 236 were cast in the Virginia precinct; the result was a majority of 165 in favor of removal. Immediately the people of Beardstown proceeded to procure a location for the proposed buildings; a lot was selected at the southeast corner of the public park upon which a commodious two-story court house of brick was erected, in the rear of which a safe and secure jail was built; these buildings were erected in the year 1844.

The records of the Cass County Commissioners Court show the following order:

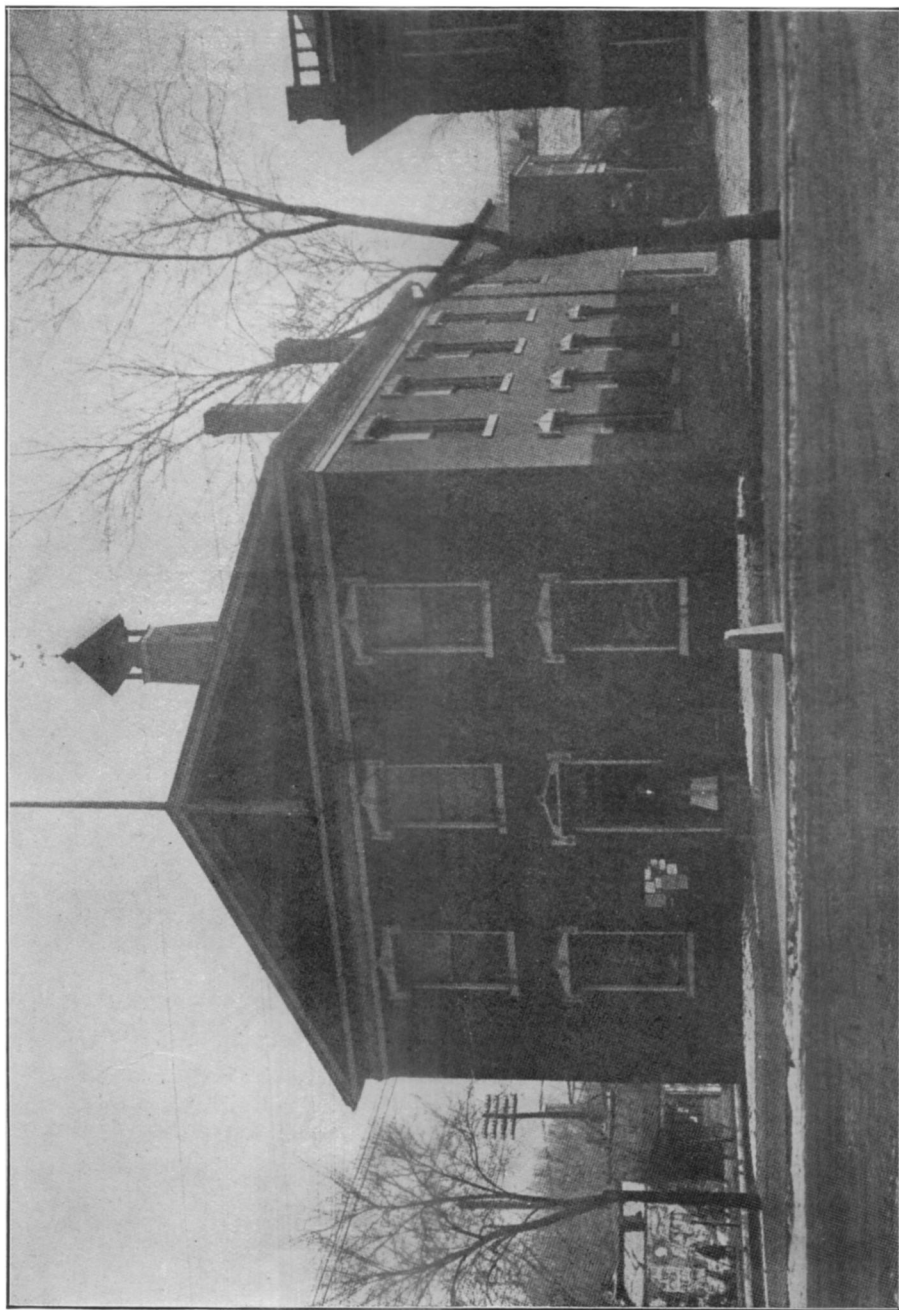
“February called term of the County Commissioners Court. This day, (February 8, 1845,) the court met in pursuance to a call made on the 3d instant.

Present, Henry McHenry, Jesse B. Pearce and George B. Thompson.

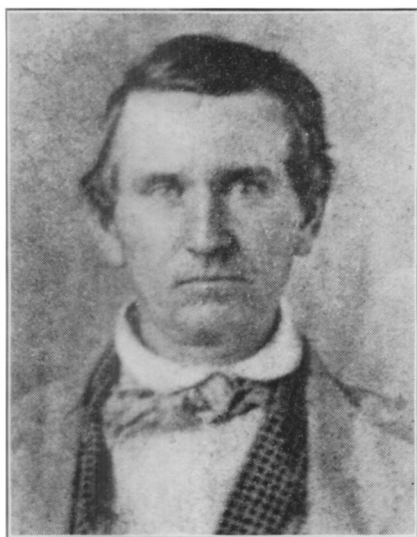
This day Henry E. Dummer, Esqr., on the behalf of the Corporation of Beardstown, presented to the court a deed from Thomas R. Saunders to the County of Cass for Lot Number One in Block Number Thirty-one in Beardstown in said county. Also a receipt from B. W. Schneider, contractor for building the court house on Lot One in Block Thirty-one (31) in the town of Beardstown in Cass County, for the payment in full for erecting said building; also a like receipt from Thomas Beard, contractor for building the jail on said lot, to the trustees of Beardstown; and also the certificate of the sufficiency of the court house and jail at Beardstown from the Hon. Samuel D. Lockwood, presiding judge of the Circuit Court of Cass County which papers were ordered to be duly filed.

Court adjourned to meet at Beardstown on the first Monday in March, 1845.

H. McHenry,
J. B. Pearce,
G. B. Thompson,”
Commissioners.



CITY HALL, BEARDSTOWN, ILLINOIS, FORMERLY CASS COUNTY COURT HOUSE



JOHN W. PRATT

This loss of the county seat seemed like a death blow to the little scattered town of Virginia, only a hamlet of some 200 population. The center of population for the county then being at Bluff Springs, but four miles east of Beardstown; the eastern end of the county was very sparsely settled at that date. Acting under that belief, a number of the business men of Virginia left the place to settle at Bath, twenty miles or more to the northeast, located on the Illinois River and then a flourishing town and the county seat of Mason County; but a few residents of Virginia, led by N. B. Thompson, refused to acquiesce in that view of the matter, and, with the spirit that animated the Crusaders to recover the Holy Sepulchre, they dedicated their lives to the sacred cause of regaining the county seat. They bided their time with patience, awaiting the eastward moving of the population's center by access of immigrants in the eastern part of the county to favor their object.

In the meantime very strenuous efforts were put forth to recover the three-mile strip, which the citizens of Cass believed they were entitled to have as their own. The county was ably represented in the State Legislature by John W. Pratt, a citizen of Virginia, who had held the office of county clerk of the county. Mr. Pratt made an able speech in that body as early as the 7th day of February, 1843, in favor of his bill to extend the limits of Cass County. The members from Morgan County, led by the Hon. Newton Cloud, strongly opposed the measure. The Legislature adjourned within a month from the time Mr. Pratt made his speech in favor of his bill, and in that short time he was not able to overcome the strong opposition made by the Morgan County members. His constituents, recognizing his ability, returned him as their member at the election held on August 5, 1844, by a handsome majority, and on the 2nd day of December, 1844, he again took his seat as a member of that body. The Morgan delegation then consisted of John Henry, senator, and Francis Arenz, Samuel S. Matthews, Isaac D. Rawlings and Richard Yates, representatives. The last named later became the great war

governor of Illinois. Newton Cloud was clerk of the House. The proposition to extend the limits of Cass County was again brought to the attention of the law-makers of the State; Mr. Pratt, with his persistent ability, aided by his former experience and more general acquaintance with the public men of his day, with right and justice upon his side, was successful in obtaining the passage of his bill on the 26th day of February, 1845, which submitted the question of adding the three-mile strip to Cass County by a vote of the residents upon the territory in question, which election was held on the first Monday in May, 1845, and resulted in favor of the proposition by a large majority; 246 voting for annexation to Cass County and but 78 voting against it.

On the 11th day of February, the State Legislature passed a law entitled an act to re-locate the county seat of Cass County, which provided for an election to be held on the first Monday in November, 1853, to determine whether the present seat of justice of said county shall be removed to Virginia; in case the election shall result in favor of such removal, then it shall be the duty of the County Court of said county to provide suitable public buildings, etc. Under this act an election was held which resulted in the defeat of Virginia by a vote of 609 votes for removal, and 886 votes against removal.

In the spring of 1857, John Mathers, Elmore Crow, James L. Beggs, Richards Yates, Newton Cloud and others, organized the Ashland Land Company, and laid out the town of Ashland, in the southeast corner of Cass County on the line of a recently incorporated railroad, then in course of construction, from Jacksonville to Tonica, in La Salle County, to be called the Tonica and Petersburg Railroad; a short time later the plan was changed and the road switched into Bloomington; it is now a branch of the Chicago and Alton system. The right of way of the Illinois River Railroad had been secured from Havana in Mason County to Virginia in Cass County; the Cumberland Presbyterian Church had established a college in Virginia, and to accommodate the people who were moving in to educate their children, the Hall and

Thomas' addition to the town had been laid out, many of the lots purchased by those who were erecting homes thereon. The very rich prairies about Virginia were being fast settled, and it was thought that the outlook favored another trial to remove the county seat from the Illinois River on the extreme west to the geographical center of the county, where the town of Virginia was then flourishing.

On the 16th day of February, 1857, the Legislature of the State passed another act for the re-location of the county seat of Cass County, which provided for an election to be held in November, 1857; that it should be lawful for the citizens of Virginia, or any other persons, before or after the election, to enter into bonds to pay such sums for the purpose of erecting public buildings, and if a majority of the votes were cast for removal, then such bonds should be legal and binding. This election was held on the 3rd day of November, 1857, and Virginia was again defeated. The interest and excitement incident to that election were most intense, and arrayed the citizens and partizans of the two towns against each other in bitter personal animosity. The people of Beardstown, determined to overcome the increased vote of the eastern portion of the county, resorted to unstinted frauds, even to importing the hoop-pole cutters and stave-splitters to vote for them. For that purpose a steamboat plied all day to and from points in Brown and Schuyler Counties; and all aliens and non-residents in reach were brought in to vote for Beardstown, and to vote often. By such means, there were polled 1,606 votes against removal, a larger number, by nearly 200 than all the legal voters of the county at that time. In all other parts of the county, 986 were cast for removal; a goodly portion were obviously also fraudulent. At the same election the proposition submitted to the people of Cass County to subscribe \$50,000 to the Keokuk and Warsaw Railroad, (a Beardstown project) was rejected by the vote of 636 for, and 792 against. The Virginians did not appeal to the courts for a recount of the ballots and expurgation of frauds, but sul-

lenly acquiesced in the result as shown by the poll-books, determined to try it again at a later day.

By the end of the next decade, the name of the Illinois River Railroad had been changed to the Peoria, Pekin and Jacksonville Railroad, and was completed between Pekin and Virginia, and the Tonica Road through Ashland was running as far north as Petersburg; a national bank had been organized in Virginia, and the town was in a very healthy condition; the numerous railroads through the country had caused the river transportation to almost disappear; Beardstown had been at a standstill for a long time and was then decreasing in business importance, and so the Virginians thought the time had come to engage in another battle for the long coveted county seat. They, therefore, procured the passage of another act by the Legislature on February 14, 1867, for another election which they hoped would bring victory to them at last. By this act it was provided that the question should be submitted to the voters on the second Tuesday in April, 1867, and in case the result was in favor of removal, then it was provided that Virginia must pay over to the County Court of the county the sum of ten thousand dollars, to be used in constructing county buildings; it should have been stated, that in 1845, after the seat of justice had been removed to Beardstown, the county authorities, without objection, conveyed the ground and building which had been built for a court house by Dr. Hall in 1838-9, to the school trustees of the Virginia township for school purposes, and the ground and building was thereafter converted to that use.

Fully expecting that the Beardstown managers would have recourse to the same frauds they practised so successfully ten years before, the Virginians foolishly determined to "beat them at their own game," and did—very much so—by adopting the same wretched tactics. In fact, they largely overdid it, the poll-books showing that all the poets and philosophers of ancient times, the signers of the Declaration of Independence, as well as a host of Union and Confederate heroes of the late war, had voted for Virginia. The result was 3,940 votes were

recorded for removal, of which 2,820 were polled in Virginia alone. The votes against removal numbered but 850. The entire legal vote of the county was then, approximately, about 1,600. Beardstown contested the election in the Circuit Court, the case was heard by Judge Smith, of Galesburg, who came to Beardstown to try the case; among the lawyers for Virginia was Hon. Robert G. Ingersoll, then of Peoria, Illinois, and Samuel L. Richmond, of Lacon, Illinois, a circuit judge; of counsel for Beardstown was Hon. U. F. Linder, a noted lawyer of southern Illinois. The poll-books kept by the election officers at Virginia were rejected, and Beardstown was again triumphant.

Among the delegates chosen by the people of Illinois to prepare their new constitution of 1870 were two eminent lawyers, Hon. Alfred M. Craig, of Knox County, and Hon. John M. Scholfield, of Clark County; both these gentlemen later were elevated to the bench of the Supreme Court of the State. The makers of this new constitution agreed that all special legislation should be prohibited in the future, which included acts for the removal of county seats. The members from Knox and Clark had county seat troubles of their own, and united in the framing of the following section to be included in the article entitled counties:

“Section 4. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years, to a vote of the people.”

It may be believed that the Virginians were closely watching the proceedings of this convention, and when it was learned that this Section 4 was practically agreed on, knowing it would forever blast their fond hopes of some day seeing the

court house again in Virginia, they resolved to do all in their power to prevent the adoption of this section, as the task of getting three-fifths of all the voters of Cass County to agree that the county seat be removed to Virginia was a hopeless one. The trustees of Virginia sent two citizens to Springfield to act as "lobby members" of the convention; one was Samuel H. Petefish, a wealthy farmer and banker, and the other the writer of this sketch, who was a young man just beginning the practice of the law in Cass County. They first appealed to Judges Scholfield and Craig to agree to a change of this section, but found them invulnerable; they believed the section was as good as adopted already. They then began to interview other members of the convention, whom they hoped might be so influential as to be able to defeat the passage of this odious section. The writer interviewed Judge Underwood of St. Clair County upon the subject; the judge very plainly said that the previous county seat elections had been most disgraceful, and he should use all his influence to prevent any more of them. There had been other contests of this sort in Illinois, conducted very much on the plan of the Beardstown election of 1857 and the Virginia affair of 1867. Even the restrictions that were finally adopted by the makers of the constitution of 1870 did not close the door against a repetition of those former disgraceful scenes. At an election held in Knox County, the home of Judge Craig, in a contest between Knoxville, then the county seat, and Galesburg, a city that desired its removal, the election was contested and a history of it is to be found in the 63d volume of the decisions of the Supreme Court of Illinois; the title of the case is *The Board of Supervisors of Knox County, and others, against George Davis, and others*; in this opinion the court said, that stupendous frauds were committed at Knoxville; the election officers boarded up the windows so as to be unable to see each person who presented his ballot, there only being a small opening through which ballots could be passed; persons were permitted to vote many times; even young boys voted, and a vote for a dog was received; the poll-books showed a vote of over 1,500,

when there had never been polled there before one-half so many; the clerks of the election refused to testify that the poll-books had not been changed.

Although Judge Underwood flatly refused to assist the suffering Virginians, an appeal to his colleague, Hon. Wm. H. Snyder, of St. Clair County, was successfully made. This gentleman was a member of great influence in that body, later he became a judge of the Circuit Court in his district, to which station he was re-elected. Judge Snyder gladly took the lead in the attack upon this objectionable section because he saw the rank injustice of it, but for the additional reason that his brother, Dr. J. F. Snyder, was a resident of Virginia, and, of course, much interested in the welfare of his town. The Doctor has since served our State Historical Society as its honored president, and has made many valuable contributions to our records. The able and powerful attacks made by Judge Snyder against this fourth section appealed very strongly to many other members, who joined the Judge in the objections to it. Judge Craig became alarmed at the situation and approached our Virginia lobby members to ascertain whether he could make terms with them. A compromise was soon agreed upon by adding to the section as it had been framed these words:

“But when an attempt is made to remove a county seat to a point nearer to the center of a county, then a majority vote only shall be necessary.”

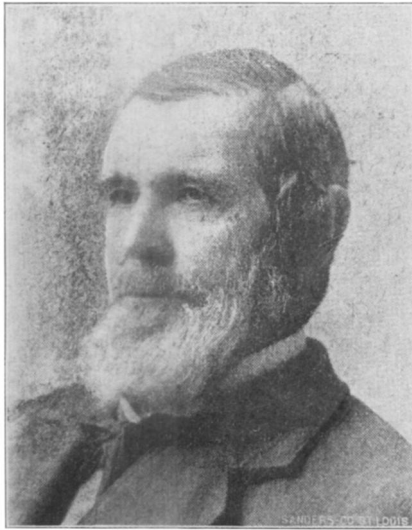
As Knoxville was nearer the center of Knox County than was Galesburg, and as Virginia was within a few rods of the geographical center of Cass County, Judge Craig was satisfied and Mr. Petefish and the writer went home, and the people ratified the constitution with Section 4, Article 10, as above set forth.

The next step on the long and weary road to the removal of the Cass County seat, was to watch the Legislature to see that a proper law regulating county seat elections should be written into the statute book. Accordingly, Virginia sent up a strong force to look after this, to them a most important mat-

ter. Among those who went was Dr. J. F. Snyder, who took an active part in this business. Colonel William R. Morrison, a life-long personal friend of the Doctor, often gave this account of it. He said the Doctor interviewed Gus Koerner, representative from St. Clair County, and a member of the county seat committee, and was very persistent in impressing upon him the advisability of a carefully constructed law relating to county seat removals. "Rest assured, Doctor," said Gus, "that we will make a fair county seat law." "That is what we want," replied the Doctor, "but we don't want it so d—d fair that it will let Beardstown beat us."

The general law for the removal of county seats, now in force, was passed by the Illinois Legislature on March 15, 1872, in force July 1, 1872. This law provided that all elections for removal of county seats must be held on the second Tuesday after the first Monday of November, at the usual places of holding elections; and the same persons who were judges and clerks at the next preceding general election, in their respective election precincts, shall act as judges and clerks of such county seat elections. It was by this law made necessary to circulate petitions throughout the county for a vote upon the removal of the county seat, and it was also necessary that as many as two-fifths in number of the votes cast at the preceding presidential election should be signed to the said petition by legal voters outside of the two contesting precincts. It was required that this petition be filed by the clerk of the county court of the county, and it was the duty of that court to examine the petition and determine whether the law had been followed.

The Virginians entered into this contest with brighter prospects than ever before. The establishment of the Farmer's National Bank in the town in 1865 has been referred to; the managers secured the services of John H. Wood as cashier; Mr. Wood had been connected with one of the banks in Jacksonville, Illinois, for a number of years, and was an excellent man for the position; Edward T. Oliver was employed as an assistant; he was a native Virginian, and a young man of ex-



SAMUEL H. PETEFISH

emplary habits and of very good business ability. A large number of wealthy farmers of Cass County had previously transacted their banking business in Jacksonville, and, as a matter of convenience, had done their trading there. All these transferred their accounts to the new bank in Virginia. Barden and Wood laid off an addition adjoining the plat on the southeast, and at once lots were sold and houses began to grow upon them. In 1871 Samuel H. Petefish, a wealthy and enterprising farmer, who had recently moved in from his farm to Virginia, organized the banking firm of Petefish, Skiles and Company, composed of Samuel H. Petefish, Ignatius Skiles, William Campbell and Jacob A. Epler, all of whom were prosperous farmers; Mr. Epler had retired, and was then living in Virginia. They employed Mr. Richard Elliott, a son of Edward R. Elliott, one of the most solid and successful bankers in central Illinois, a member of the firm of Hockenhull, King and Elliott of Jacksonville. Fine brick store buildings were erected around the public square; people who believed the county seat would soon be located in Virginia came in, and a boom was on. On the other hand, Beardstown was in a sad condition. The town was laid out in 1826; Thomas Beard came to Illinois in the year 1817, when he was but 23 years old; he found General Murray McConnel at Edwardsville, Illinois. The general was attracted to the young man, who told him that his ambition was to locate a ferry on the Illinois River. McConnel had previously explored the valley of that river and described to the young man the famous Kickapoo Mounds a short distance below the mouth of the Sangamon River, and offered to go with him to inspect that locality. They set out on horseback to travel the distance of 100 miles; Beard was charmed with the prospect and resolved to remain there; he soon made friends with the Indians and established his ferry at that point, as the east bank of the river was an eligible site for an Illinois city. It was named in his honor; as soon as he was able he erected a fine building and established a hotel therein. His ferry enterprize prospered; it was not long until his daily receipts were large—sometimes \$100 per day.

When settlers began to fill up Iowa, hundreds of them crossed the Illinois ferry at Beardstown. The river navigation rapidly increased; for years all the supplies needed in Springfield were shipped by the river to Beardstown, and carted across the country to Springfield in wagons, a distance of fifty miles. Thousands and thousands of hogs were driven to Beardstown, coming for a distance of nearly fifty miles to be slaughtered and packed for shipment to New Orleans, St. Louis, Cincinnati and other cities. The town grew rapidly; flouring mills, saw mills, distilleries, and other business enterprises were there established and did a thriving business. In the '50's Horace Billings erected the Park House, a three-story brick hotel, a palace in those days, and even today widely known as one of the best managed hotel properties in the middle west. Henry E. Dummer came there in an early day from New England, a young lawyer; he became probate judge, a State senator, built a fine brick law office on the public square and prospered; Garland Pollard, another bright young attorney, came from the east and settled in Beardstown in 1860; he also flourished, known as a lawyer of distinguished ability. But, alas, for Beardstown, railroads began building; the river traffic began failing, and the city began to languish; no railroad, hundreds of fertile acres immediately near, still annually overflowed, the days of drainage had not yet arrived; Leonard's bank went to smash; Judge Dummer became discouraged and went to Jacksonville, where he soon built up a fine law practice; Mr. Pollard quit in disgust and went to St. Louis where his ability was soon recognized and he was made attorney in chief of the great Baltimore and Ohio railroad system; the large and well appointed Park House was turned over to Andy Maxwell, furnished for one year rent free, the following year he paid as rent the beggarly pittance of three hundred dollars. Judge Douglas, of national fame, had purchased a large number of lots in Beardstown; he allowed them to sell for taxes; the writer of this sketch owned a number of lots, now very valuable, for which he was glad to get \$75 each; no one now visiting the beautiful and pros-

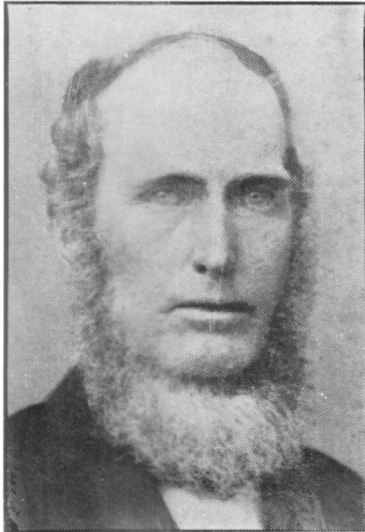
perous city of Beardstown, one of the very best little cities in Illinois, can easily believe this doleful account of her condition in those "hard times." The railroad now owned by the Baltimore and Ohio system had been extended into Beardstown about 1870, but seemed at that time to be of no benefit or advantage to her. It was like the razors that were made, not to shave, but to sell. That with many other roads was built to bond, and then allow the bond-holders to foreclose and lose their money; that class of railroads are now owned by the great railroad systems of the country, bought for a beggarly price and used as feeders.

And so Virginia thought that to get the county seat would now be an easy task; they reckoned without their host, as the sequel will show.

The first necessary thing to do was to make a *city* out of the little town of Virginia, and to do that it was necessary to find at least one thousand people within the corporate limits. For that work a census-taker was chosen. A boy was once sent out into a farm-yard to count the pigs; he returned and reported that he had counted all but one, and that one had run so fast that he could not count him; perhaps our census man found so many in the outskirts running so fast that he counted them more than once; but, at least, he reported one thousand, and who was there to dispute it? The Bible says that once on a time the disciples were all in one place, with one accord, and like them, there was no dissension among the Virginians in the beginning of this contest. The next move was to employ Hon. Cassius G. Whitney of Pekin, Illinois, a talented young lawyer who then was the state's attorney for the circuit containing Tazewell, Mason, Menard and Cass Counties. Later he was a partner of Hon. Charles M. Tinney, a well known Illinois republican politician, now living in Springfield. Mr. Whitney prepared the preliminary notices under the law, and the Virginia party was soon made aware of the fact that the opposition to their plans was to be strong and bitter. Mr. Whitney with some of the more zealous Virginians, among them Ignatius Skiles, Morrison Graves, Chas. Crandall and

others, made a school house campaign all over the central and eastern portion of the county, urging the people to remove their county seat where justice demanded it should be situated.

No sooner was the campaign inaugurated than Jacob Dunaway unfolded his plan to win the county seat election. This man became a resident of Virginia about 1849; he came as a stage driver; soon he owned the stage lines between Virginia and Jacksonville, and Virginia and Beardstown; soon he purchased the Virginia hotel; he was a man of but little education, but of great natural ability; had he been properly educated, he might have become a famous lawyer. He had been in the thickest of the fight in the various county seat elections held after his advent into Cass County; he knew what Beardstown had done, what she could do, and what she would be likely to do. He saw that a majority of *all the voters in the county* must be obtained to win; that all the sick, all the absentees, all the supremely indifferent would be counted against Virginia, and so he declared that the only way to win the county seat was for the town of Virginia to build a respectable court house on the public square before the election. His plan, at first was ridiculed; the objectors exclaimed, "Virginia has no authority to build a court house." To this Dunaway replied, "Virginia can build a city hall and turn it over to the county." The answer to this was, "Virginia already has a two-story brick city hall that is still unpaid for, and if we begin on your plan an injunction will be issued to stop us." But Dunaway persisted; he hammered away, and, at last, it was agreed that the building should be erected. If the plan of Jacob Dunaway had not been adopted, the county seat would never have been removed to Virginia, as the reader will see before he finishes this account. If Virginia had derived one-half the expected benefit the removal of the seat of justice was to bring, then it would be the duty of their citizens to erect a monument in the public square to the memory of Jacob Dunaway. There could not have been another election before 1882, and by that date Beardstown was on the high road to her present degree of prosperity, and an effort then to take the county seat would not have been made.



JACOB DUNAWAY

The plans for a neat two-story building of brick with stone trimmings, conveniently arranged for a court house, were arranged to cost more than twenty thousand dollars; Jobst and Pierce of Peoria, were awarded the contract to build it, and immediately the work was begun upon the public square and was rapidly pushed forward. The dedicatory services were attended by a large concourse of people, but not many came from Beardstown. The argument of Jacob Dunaway was this: A large number of tax-paying citizens, living half-way between the towns, finding that Virginia has paid for a court house to be given to the county, will not vote for Beardstown, knowing that if Beardstown wins, she will tax us to build a set of county buildings that will forever settle this county seat question. Virginia will be as convenient to us as Beardstown, so we will vote for removal to accept a court house ready for use. This argument without doubt was effective with not a few of the voters who lived near the "divide."

On the 5th day of November, 1872, the election for county officers was held in Cass County, and to show the bitterness that then existed between the two contending factions, let me here say: Previous to that time for many years, Cass County had been a democratic stronghold; the county could be depended upon to roll up a democratic majority of several hundred, but, at that election, two candidates upon the republican ticket, George Volkmar for sheriff, and Albert W. Arenz, for circuit clerk, were elected by good majorities for the reason that they were residents of Beardstown, and both active workers against Virginia. For some years after that election the county was divided into two hostile camps, in bitter warfare; the Virginians made up mixed Virginia tickets composed of both republicans and democrats, and fought for them and elected them until such time as the hatred wore away.

The 12th day of November was an ideal day, a beautiful Indian summer day, and in what land can more entrancing weather be enjoyed than that of the Indian summers of the middle west? Challengers came up from Beardstown provided for by the county seat law to attend the election at

Virginia, and challengers went to Beardstown to see the election was a fair one. The nooks and corners of the little county were carefully explored; the bushes were beaten, and every effort was made to get all the voters to the polls. The battle was very quietly fought and fairly conducted on both sides. The result, as shown by the count, was 1,458 votes for the removal, and 1,330 votes against the removal, a majority of 128 votes in favor of Virginia, and there was great rejoicing in the center of the county. But the good people of Beardstown did not believe in surrender, and prepared to fight to the limit. The service of able lawyers was arranged for; Garland Pollard, then of St. Louis, and Isaac J. Ketcham of Jacksonville, were at once retained, with Hon. Thomas H. Carter, an old lawyer of Beardstown, who was selected for local counsel. They promptly prepared a bill to contest the election, claiming that many persons had voted for removal without right; that more than one hundred legal voters had not voted either way; and that there was not a majority of all the legal voters of the county who had voted for removal.

Cass County never adopted the township organization plan of county government, but retained the old system. The three county commissioners were originally called the County Commissioners Court, and later were styled the County Court; the Probate Court had recently been granted common law jurisdiction, to a limited extent, and that tribunal was also called the County Court. In the fifteen sections of the act for the removal of county seats, the County Court was named in seven of them, and there was some doubt which of these two "courts" was meant in these several sections. This defect was recognized by the Legislature of 1873, which amended the act by providing that the words "county court," or "court," as they appear in the original act shall, except in Sections 12 and 13 be held to mean the County Court for the transaction of probate and judicial business; and the word "county court," as used in Section 13 of the act, shall be held to mean the county court for the transaction for county business. As the law was blind on this important point, Mr. Whitney had to

make a guess at it, and, of course, the attorneys for Beardstown, no matter what they really believed, pretended to believe that the Virginians got into the wrong court and therefore the whole proceedings were void, and no valid election had been held. Before November was ended, a large delegation from these two contending cities were in Havana, Mason County, before Charles Turner, the judge of the Circuit Court, in a struggle over this disputed question. The judge held one session in Havana and continued it to a later date to be finished at Pekin. Hon. N. W. Green, an excellent lawyer of Pekin, was retained by the Virginians to aid Mr. Whitney; Beardstown was there, represented by Messrs. Pollard and Ketcham. The judge held that Whitney had guessed right, and that ended that contention.

An injunction had been granted in the case for the contesting of this election, restraining the removal of the county records, until the final disposition of the case, so Beardstown was in no hurry to reach the end of the action. After a long conference, it was agreed that Mr. James A. Hall, then in the employ of Judge Kirby of Jacksonville, in his title abstract office, should be chosen as the special commissioner to take the testimony in the case. A part of the testimony was taken at Virginia, but the greater part at Beardstown, where this writer was engaged more than two hundred days. The examination of witnesses dragged on for many weary months; hundreds of those who had voted were called upon to testify; some were sent for several different times, to their discomfort and disgust. Under the county seat election law, the residence qualification required that the voter should have resided one year in the State, six months in the county, and ninety days in the election precinct, whereas, in other elections, but ninety days' residence in the county and thirty days in the election precinct was necessary; the difference was designed to discourage the colonization of voters for the special purpose.

At one stage of the battle, the Beardstown attorneys found it necessary to amend their pleadings, and a judge was applied to for consent so to do. In preparing his order, the writer of

it neglected to provide for the continuance of the injunction. This failure was noticed by Mr. Whitney, and he prepared to give the good people of Beardstown a surprise. As before stated, the Virginians had combined to nominate a Virginia non-partizan ticket for use in the election of county officers; this ticket for the election of November, 1874, named James B. Black, a republican, for county clerk, and John W. Savage, a democratic-greenbacker, for county judge, and William Epler, a republican, for sheriff. These three gentlemen, of course, were strong partizans on the Virginia side of the battle, and they were elected, and at this time were holding their respective offices in the court house in Beardstown. The time was in the winter of 1874-5. In the darkness of the night, two teams and wagons, accompanied by a goodly number of horsemen, all armed, left Virginia. About midnight they arrived in the suburbs of Beardstown; two of the horsemen rode quietly to the court house, and found that Judge Savage and Mr. Black had boxed up all the records of the county clerk's office ready for removal. The two messengers rode back to their confederates and reported that "all was quiet on the Potomac." The teamster drove through the streets of Beardstown, which were then in deep sand, now well paved. The teams were halted by the side of the building; the precious boxes soon loaded into the wagons, and the procession moved out of the city in the darkness, undiscovered. About three the next morning, the sleepers in Virginia were aroused by the firing of guns and shouting; they could not imagine the occasion. The contents of the wagons were carried up into the second story of the new court house and put under a guard. Early in the morning, it was discovered that the office room of the county clerk was an empty one. A dispatch was sent to the Beardstown lawyers, who at once patched up their pleadings and obtained an order restraining the runaway officials from transacting any official business in Virginia until the end of the case; consequently, Mr. Black and Judge Savage enjoyed a vacation for several months, and important probate matters were cared for by the judge of the Circuit Court in vacation.

At length, the parties announced that they were ready, and

the cause was heard by Judge Lyman Lacey, one of the judges of the judicial circuit. The trial occupied the greater part of two weeks, filled with bloodless skirmishes. Judge Lacey found the issues for Virginia, and Beardstown promptly obtained an appeal to the Supreme Court of the State. In that court Beardstown was most ably represented by Judge Anthony Thornton, for many years one of the judges of the Supreme Court of Illinois, and by Garland Pollard of St. Louis, and I. J. Ketcham of Jacksonville, Thomas H. Carter of Beardstown and the law firm of Hay, Greene and Littler of Springfield. Virginia was represented by the Chicago firm of Lawrence, Winston, Campbell and Lawrence, the senior member being Hon. Charles B. Lawrence, for many years one of the judges of the Illinois Supreme Court; also by C. G. Whitney of Pekin, and Isaac L. Morrison of Jacksonville, and the writer of this sketch, of Virginia. The case was heard at the January term, 1875, twenty-six months after the election. The opinion was written by Judge Sheldon and is reported in the 76th volume of the Illinois Reports at page 34; the title of the cause being *The City of Beardstown, appellant, vs. The City of Virginia, appellee*.

Among other important questions passed upon by the court was this one: Were aliens, who were minors on April 1, 1848, made voters by the Constitution of Illinois adopted in 1848. By the adoption of that instrument, all male aliens above the age of 21 years residing in Illinois on April 1, 1848, were made legal voters, without the necessity of their taking out naturalization papers. The question was: Did the minor sons of these aliens become voters upon their arriving at the age of 21 years. The appellants in this case contended that this class of the people were entitled to vote for this reason: The naturalization law provided that if the alien father became naturalized, his minor sons became legal voters at the age of 21 years by operation of law, and by analogy it should be held these "'48 minors," as they were called, became legal voters at their majority. As there were forty-four in this class, ten of whom had voted for removal and thirty-four against, it

was very important that Beardstown should win on this contention. Judge Thornton, in his argument in this case, used nearly half of its printed pages strenuously insisting that these " '48 minors" were made voters by the constitution of 1848. He burst out in these strains of eloquence:

"The noble boy, who witnesseth with a deep interest the annual return of the day of election, looks forward to the time, when he can be a participant, although he can not use it, the privilege is secured to him; the constitution has guaranteed it, and he only awaits the rapid passage of time, to deposit his ballot, as an American freeman. He is in truth, in the broad sense of the term, an elector. The enfranchisement of the father is the enfranchisement of the child."

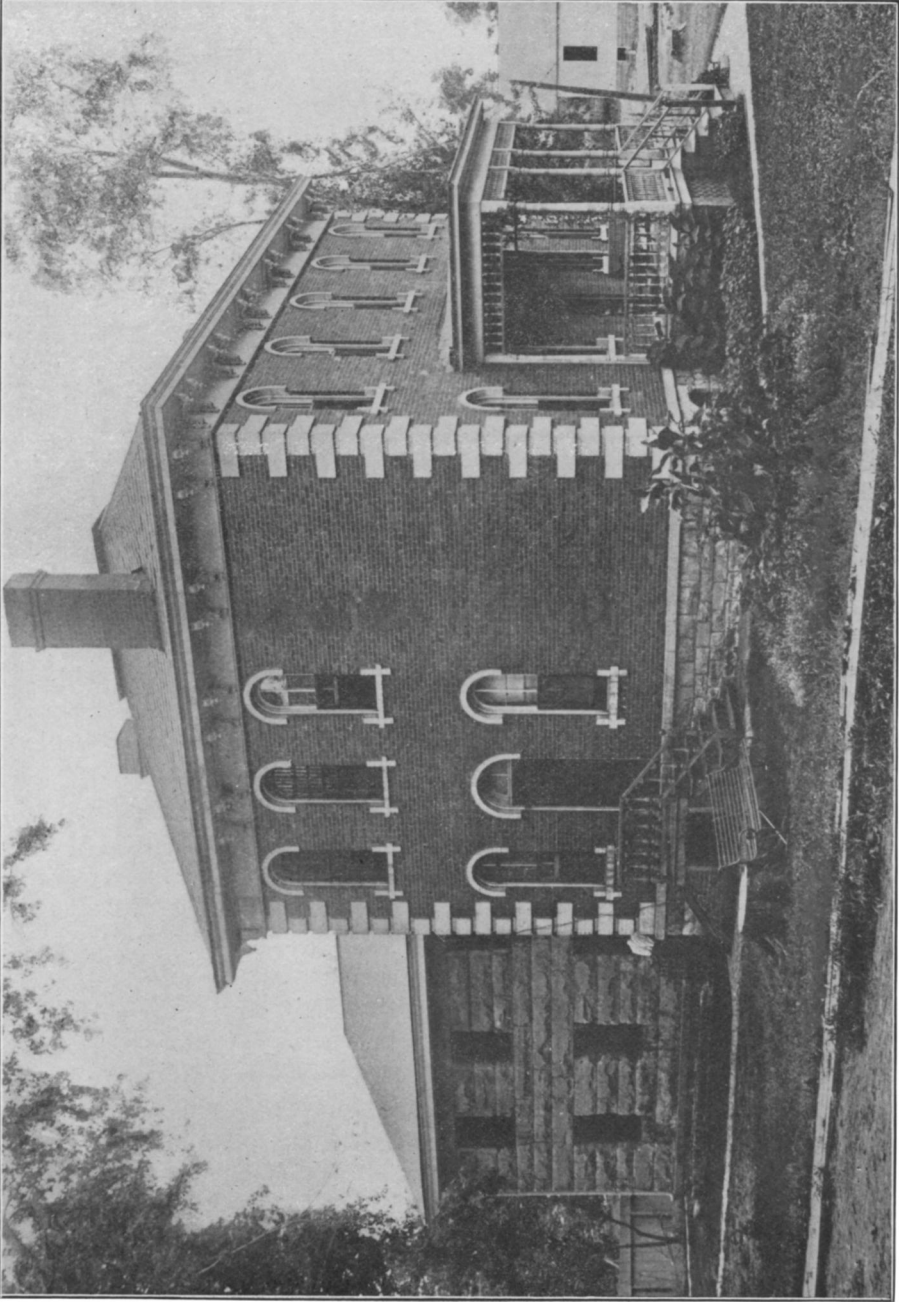
In replying to this choice bit of eloquence, Judge Lawrence first examined the record of the proceedings of the constitutional convention of 1848, of which Judge Thornton was a distinguished member and has this to say:

"We confess to a great degree of surprise, when we read that '*Mr. Anthony Thornton, of Shelby*, argued against the power of this State to pass any law allowing foreigners the right of suffrage. He thought such laws were unconstitutional, and challenged a precedent in the Union. In Ohio the constitution was in the same words as ours, yet they have never interpreted it as we have. He would vote against the amendment."

"It is difficult for us to realize that this was the language of the learned counsel for the appellant, who now argues so strenuously to convince the court that the article, as originally drafted, and as finally adopted with his vote among the '*Yeas*', was understood *by him* to invest any unnaturalized foreigner with the right to vote, though he had not already exercised that right under the constitution of 1818."

Judge Lawrence then quotes the passage referred to concerning the "noble boy," and then adds:

"We must be permitted to doubt whether 'the noble boy,' then present to the sight of '*Mr. Thornton, of Shelby*,' bore



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the same aspect as the one now present to the imagination of the learned counsel for appellant."

" ' 'Tis distance lends enchantment to the view.' "

The opinion in the case was written by Justice Sheldon. The court held with Judge Lacey who heard the case below, that these minors of 1848 were not entitled to vote. It was found that the majority for removal as found by the returns was 128; that the numbers of the illegal votes cast against removal was 129; votes illegally excluded by the judges of election but received by the court, 2; making an aggregate of 259 votes. Votes for removal found to be illegal, 102; legal voters of Cass County who did not vote, 149, making a total of 251; which left a majority for the removal of eight votes.

The court proceeded as follows:

"We find a number of cases on each side where we would be inclined to find differently from the court below; but on a balancing the one against the other, we fail to find an excess of erroneous rulings against the appellant enough to overcome the majority in favor of removal."

In the case the court found in favor of the right to vote by certain persons who were naturalized in the county courts.

This opinion reached the parties in mid-summer of 1875, and therefore the remaining officials came up from Beardstown with their records and established themselves in the new court house in Virginia, and it was believed that the county seat case was at an end.

In the case of *The People ex rel, etc. vs. McGowan*, reported in the 77th Illinois, page 644, the court reversed their ruling upon the right of county courts to naturalize aliens, whereupon the attorneys for Beardstown obtained a rehearing of the case. It came up again at the term of January, 1876, and is reported in Vol. 81 at page 541. By the revision of their findings to accord with the McGowan case, they found the result was a tie vote between Beardstown and Virginia. The court must have found it was in a dilemma, for the county business was proceeding in a very satisfactory manner in Virginia. There was no other course to pursue, except to

dig down deep into the case, and wade through the swollen record. This the court proceeded to do, overhauling the testimony at a great rate. Just what they found in the many cases would not interest the reader of this sketch; suffice it to say, that when the work was ended the court found there was a majority in favor of removal of just three votes, and two of the judges, Justices Craig and Dickey, dissented to that finding.

So the reader will agree that if the plan of Jacob Dunaway had not been adopted and carried out, Virginia would have not won this hard-fought battle.

The Virginians, now victorious but utterly exhausted, sat down to wait for the establishment of the county seat to make for them a great and populous city. Merchants came from Jacksonville, Chandlerville and Beardstown, and Virginia found it had more dry goods stores than were in Jacksonville—a city ten times its size. But the people and the trade did not materialize as expected and these newcomers silently folded their tents and stole away. The Burlington Railroad system acquired the ownership of the valuable line of road extending from Rock Island to St. Louis through Beardstown, and established their extensive shops in the former county seat of Cass County. The trains were made up at Beardstown, one set of their trainmen going north and the other south; a large sum of money was weekly paid out to the numerous employees there and Beardstown began its healthy growth; it increased from 4,226 in 1890 to 4,827 in 1900, and to 6,107 in 1910; while Virginia declined from 1,602 in 1890 to 1,600 in 1900, to 1,501 in 1910. It would be hard to find 1,600 there today. This is a poor showing—a gain from 1,000 in 1872 to 1,600 in 1914—600 in thirty-two years, or but nineteen per year. I dare say many other small towns in Illinois can make a better showing without a county seat. Virginia expended in these numerous battles at least the sum of one hundred thousand dollars; half that sum would have provided an abundant supply of excellent water from the Sangamon valley, and the remainder might have been well expended in the es-

tablishment of factories which must be had to make a city out of a town. And the people of Beardstown must see how foolish they were to make such a terrible fight to retain what was of so little value. They now have a City Court there, held in the solid old court house built in 1844, still in excellent condition, which has been reconveyed to them by Cass County. They have three daily trains each way to and from Virginia, but thirteen miles away. The State road between the cities is now being paved by the State, county and city authorities; a trip in a motor car can be made when the roads are dry in thirty minutes, and Beardstown would be foolish if they offered thirty cents for the county seat's return, and why? Because Beardstown has paid a large part of the cost of two expensive additions to the original court house building in Virginia to accommodate the county offices; it has helped build an expensive jail there; it has helped to pave the street in front of the jail and the entire court house square; why should they wish to tax themselves to build another set of buildings in Beardstown? Why should they care to begin another season of turmoil, to cause the sections of that now peaceful little county to again begin hating each other as do the Germans and French in Europe?

Very nearly all the active workers in behalf of Virginia have passed over into the spirit world. Jacob Dunaway, Ignatius Skiles, Morrison Graves, John H. Tureman, Dr. Goodspeed, C. A. Crandall, S. H. Petefish, John A. Petefish, Edward T. Oliver, John M. Epler, Z. W. Gatton, A. G. Angier, W. W. Easley, R. W. Mills, J. H. Wood, Allen Dunaway, R. W. Rabourn, all are numbered with the dead, and many others. There are very few left, Dr. Snyder, Robert Hall and Frank M. Davis, and perhaps a few others, are yet on the shores of time; Wm. Epler, who was elected sheriff in 1874, yet survives; of all the attorneys engaged in all those battles only the writer is left, except that Judge Henry Phillips of Beardstown, who helped to represent his city in the trial before Judge Lacey, still lingers. If all those well remembered Virginians were permitted to return and look the ground over, see the

present conditions, count the cost and foot up the results, might they not agree that the title to this sketch might well be borrowed from the plays of Shakespeare and appropriated, "Much Ado About Nothing."

NOTE: The foregoing sketch was prepared by the writer at his present home in Pomona, California. For copies of statutes and records, and valuable matter sent out to him from Illinois, he is indebted to Miss Georgia L. Osborne, assistant librarian of the Illinois State Historical Library, and to Dr. J. F. Snyder of Virginia, Illinois, ex-president of the Illinois State Historical Society, and to Hon. Charles A. Martin, county judge of Cass County, and to Mr. Charles Parry, deputy county clerk of Cass County.